IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 31544 of 2007(E)

PETITIONER:

MOLYKUTTY ZACHARIA, AGED 50 YEARS,
W/O.ZACHARIA VARGHESE, THULIYAMPARAMBIL HOUSE,
MULAKULAM P.O., PIRAVOM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, ERNAKULAM.

3. REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA

4. TAHSILDAR, MUVATTUPUZHA.

5. VILLAGE OFFICER, PIRAVOM, PIN – 686 664.

BY ADV. SHRI.K.P.PRADEEP, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

WP(C) No. 31544 of 2007

Dated, this the 24th day of October, 2007

J U D G M E N T

The challenge in the writ petition is against Exts.P8 & P9, by which, a two storied building constructed by the petitioner and her husband has been assessed as one unit and tax has been levied. From Ext.P9, it is seen that the reason stated by the 3rd respondent for upholding the assessment by the 4th respondent is that the access to the first floor of the building constructed by the petitioner is only through the ground floor. It is on that reason, the 3rd respondent has declined to accept the contention of the petitioner that she only owns the 1st floor.

2. The reasoning of respondents 3 & 4 do not appear to be correct. They should not have concluded the issue only referring to the access that is provided. They should have referred to Ext.P1 document, on the basis of which the right to construct the first floor has been purchased by the petitioner. That apart, Exts.P2 to P5 show that the building tax has been assessed in the petitioner's name independently. Petitioner also has produced Ext.P6 ownership certificate and also Ext.P7 return that has been filed by her. It is the specific contention of the petitioner that, she has

produced Exts.P1 to P7 before the authorities. But however, those have not been referred to in the impugned proceedings. In my view, these documents are very much relevant and that the authorities erred in ignoring the same and concluding the issue against the petitioner.

3. I am satisfied that the matter requires re-consideration. Accordingly, Exts.P8 & P9 stand set aside and the 4th respondent shall re-consider the matter, taking into account Exts.P1 to P7 referred to above, and pass fresh orders, with notice and opportunity to the petitioner. This, the 4th respondent shall do within a period of two months from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment before the 4th respondent for compliance.

(ANTONY DOMINIC, JUDGE)

jg